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राष्ट्रीय पिछड़ा वर्ग आयोग
भारत सरकार

नई दिल्ली - 110 066
MEMBER-SECRETARY
NATIONAL COMMISSION
FOR BACKWARD CLASSES
GOVERNMENT OF INDIA
NEW DELHI - 110 066
14. 08. 1998

DO NCBC Advice No. (25) Rajasthan/98
8 Delhi/98

Dear Shri Manavalan,

I am sending herewith the Advice of the National Commission for Backward Classes under Section 9(1) of the NCBC Act, 1993 for Rejection of the Requests for Inclusion of "Kayastha" caste/community in the Central Lists of Backward Classes for Rajasthan and the National Capital Territory of Delhi, for necessary action by the Central Government under Section 9(2) of the Act.

Yours sincerely

(P.S. KRISHNAN)

Shri D.K. Manavalan,
Secretary
Ministry of Social Justice & Empowerment
Shastri Bhavan
NEW DELHI

Advice No.

25/98 Rajasthan

Advice No.

8 /98 Delhi

NATIONAL COMMISSION BACKWARD CLASSES

FINDINGS

Case: Request for Inclusion of "Kayastha" caste in the Central List of Backward Classes for Rajasthan and Delhi.

Per Shri P.S.Krishnan, Member-Secretary

Request

1. This case arises from the Requests received in this Commission from the individuals, associations and organizations, details of which are given in the enclosed list at Appendix - I and II for inclusion of the Kayastha Caste in the Central List of Backward Classes for the following states:-

i) Rajasthan

ii) Delhi

II. Public Hearing

2. The two-Member Benches of the Commission respectively for Rajasthan and Delhi held Public Hearings separately for Rajasthan and Delhi States to examine the Requests in this case as per details given below:-

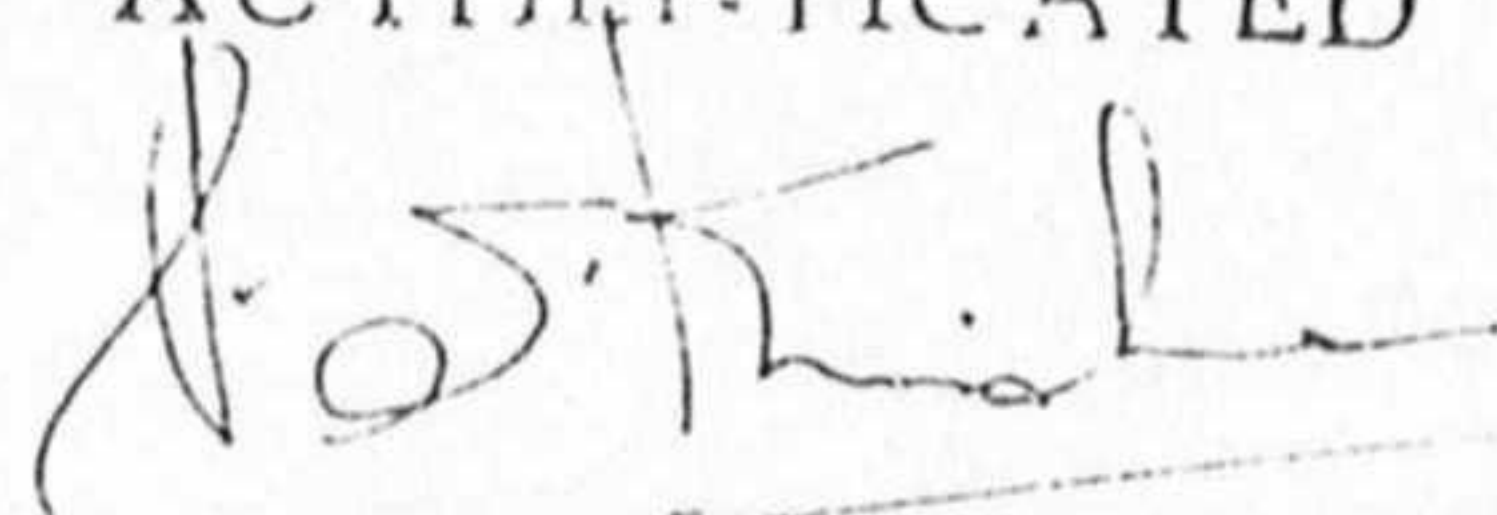


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S.No.	Name of the State and date	Bench Member	State Government representatives who attended Public Hearing
1.	Rajasthan, 30.5.97	Sh. P.S.Krishnan Sh. Navtej Paudhi	1. Shri S.K.Dalel, Joint Director, Directorate of Social Welfare 2. Shri R.C.Sharma Dy.Director, Directorate of Social Welfare 3. Shri G.D.Garg, Joint Director, Rajasthan State Backward Classes Commission.
2.	Delhi 2.7.97	Justice P.K.Shyamsundar Shri P.S.Krishnan	1. Shri Brahmanand Dy.Director, Social Welfare.

In the case of Rajasthan, no representative of the community appeared before the Bench during the Public Hearing. At the Public Hearing for ^{the} Delhi State the Community was represented by the individuals/associations and the concerned organizations, a List of which is attached at Appendix III.

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III. Facts:-

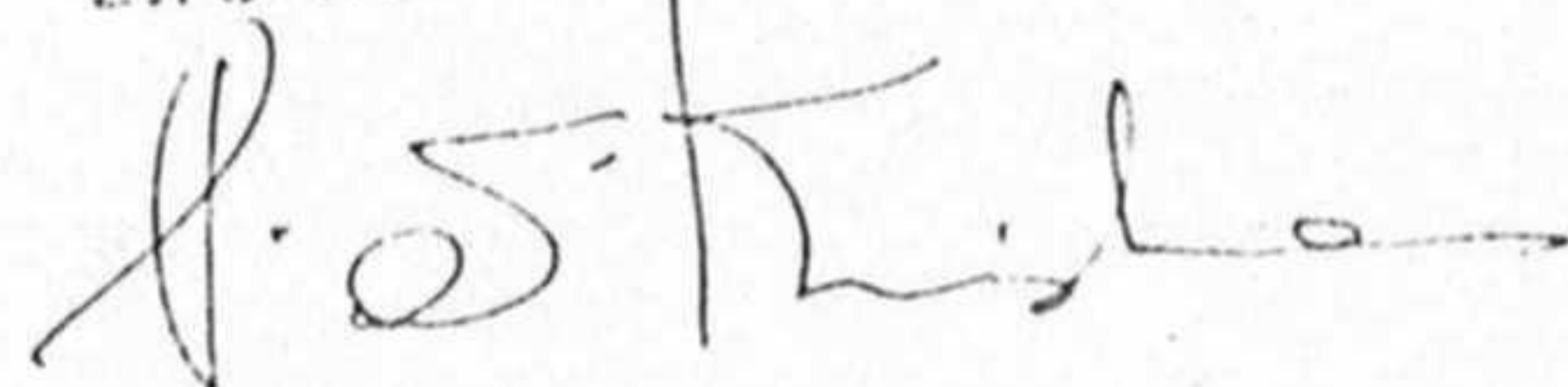
- A) Geographical distribution of the Kayastha Caste & their position in the List of Backward Classes.

4. "People of India:- Communities, synoymys, surnames and titles" General Editor K.S.Singh (Anthropological Survey of India/Oxford University Press, Delhi 1996, Volume-VIII, P.No.536) in Appendix (A):- a consolidated List of Communities from the census(1881-1941 and 1981) and other sources and their distribution) mentions the distribution of the Kayastha Caste earlier in more than 25 provinces and lists its present distribution in Assam, Bihar, Delhi, H.P., Madhya Pradesh, Orissa, Tripura, Uttar Pradesh, West Bengal & Chandigarh U.T."

5. The Kayastha Caste is not included in either the Mandal List, State List or Central List of Backward Classes for any State/UT.

6. The Commission has received Requests for inclusion of the Kayastha Caste from two States namely Rajasthan and Delhi. Therefore, it is considered appropriate to take an integrated view of these Requests and of the Kayastha caste as a whole. Accordingly it was decided by the two Benches that common Findings be formulated covering both these States, as the joint Findings of the two Benches.

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(B) Data furnished by the representatives of the Kayastha Caste

7. The Requests made by individuals/associations/organizations for inclusion of the Kayastha Caste in the Central List of Backward Classes for Rajasthan and Delhi and averments relating to them and data furnished by them are given below:-

B(i) Rajasthan

8. The Kayastha Hitkarni Sabha, Jaipur submitted their Request to include "Kayasthas in O.B.C. on social and economic grounds". In their Request the sabha stated the following facts about their Caste:-

i).....The percentage of Kayasthas in Hindu Society is almost equal to that of Jats and much more than the Gujjars, But whereas Gijjars and Yadavs have been included among the backward classes by the Mandal Commission, the caste of Kayastha was ignored without assigning any reason.

ii). The "Kayastha" Community has no traditional occupation, business or profession. Person belonging to this community mainly depend on government service which is only the occupation in which they enter by virtue of high education among them. The members of the caste/community occupy important positions in various fields.

iii). The "Kayastha" Community has been termed "Shudras" in number of Judicial pronouncements. Even in this age of advancement many Brahmins do not accept kachcha food from the Kayastha Community. The Kayasthas are socially backward, being looked down upon not only by the twice-born castes but also by some of the Mandalised sections.

iv). It was also stated by the Sabha that there are sub-


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castes of Kayasthas-- Koli, Gadaria and Sirbis which denote their backwardness as they are cattle breeders or sheepherds.

v). The Sabha has also enclosed a copy of the Request it submitted to the Rajasthan state Backward Classes Commission, Jaipur, on "economic grounds."

9. Another association 'Chitransha Deep', Bikaner also made a Request to this Commission to include their caste/community in the Central List of Backward Classes on similar grounds.

B(ii). Delhi

10. The Akhil Bhartiya Kayastha Mahasabha, Delhi in their Request has made the following averments:-

i). The present policy of reservation in Government Services will create great chaos, depression and poverty as well as complete physical and mental breakdown in a large section of the Kayastha Community. In view of this fact the community requested the Commission to either abolish the reservation policy or to include the Kayastha community in the List of Backward Classes as per judgement of Calcutta High Court No. ICP 127, page 688, volume 10, the Indian Law dated 4.3.88.

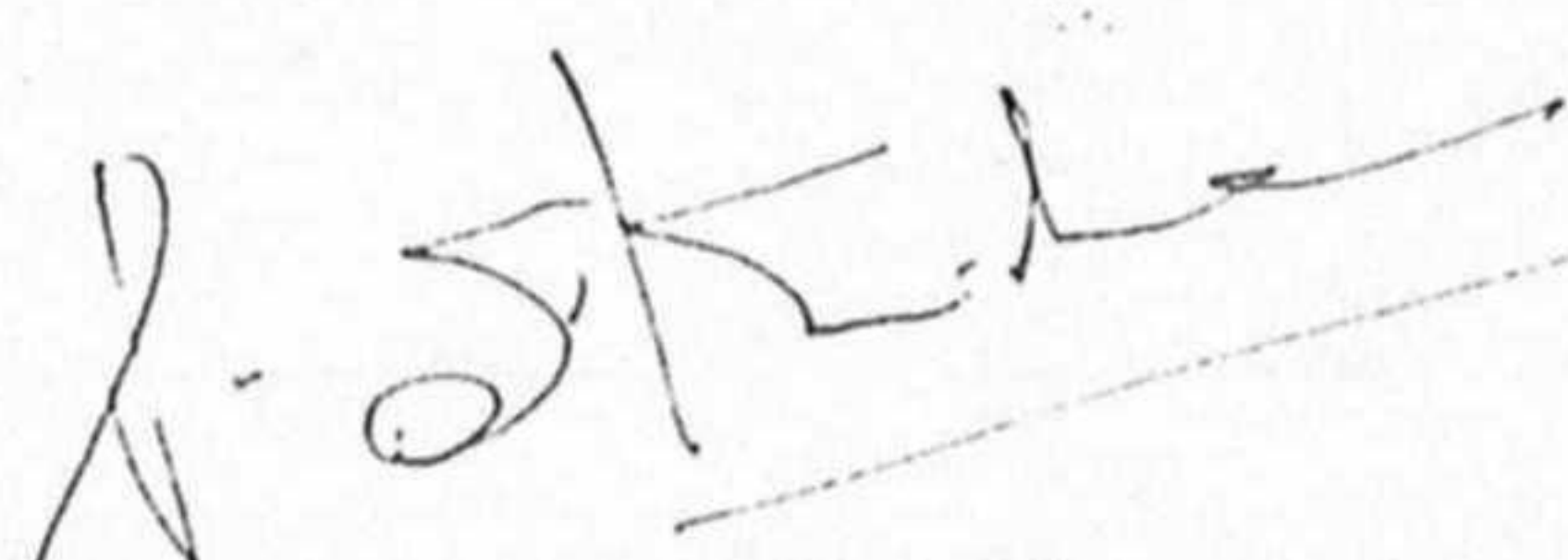
ii). The Kayastha community has rendered services to the Nation and mentioned the following names of a few eminent Kayastha personalities:-

Dr. Rajendra Prasad, Lal Bahadur Shastri, Swami Vivekananda, Netaji Subhash Chandra Bose, Jagdish Chandra Bose, Shanti Swaroop Bhatnagar, Maharshi Aurbindo Ghosh, Munshi Prem Chand, etc.

11. Delhi Pradesh Kayastha Sabha, Delhi has submitted a

memorandum which contains the following facts:-

- i). The Kayastha community's historical, cultural and social background has not ever suggested that the community belongs to a backward class either socially, educationally or economically.
- ii). In the pre-Independence period, the Kayastha community was having a predominantly a sizeable population in Delhi (about 6 or 8 Lakhs) comprising 15% of Delhi's total population . With the rise in Delhi's population the community's population has not shown a growth comparable other communities.
- iii). The Community's level of literacy for men and women was comparatively higher than that of any other community. It is, by all standards, higher than the average literacy level.
- iv). The community is a part of larger Hindu Samaj, and its members profess Hinduism as its Religion.
- v). The community has a reputation of belonging to an intellectual class, having knowledge in the field of Education, Science, Technology, Civil Services, Judiciary, Literature, etc.
- vi). By profession, the community members always opted for jobs and services for their livelihood, whatever may be their academic or professional standard.
- vii). The members of the community held key administrative positions in the Central, State administrations and in almost all princely States since ages.



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viii). In the post-independence period, Delhi had the pride distinction of having Lt. Governors/Chief Commissioner, Chief Justice, Secretaries in Central Govt. belonging to the Kayastha community. They had displayed highest degree of integrity and administrative capabilities.

ix). The members of the Kayastha community were owning agricultural lands and served in Land Revenue Cadre viz. Patwaries, Kanungos, Tehsildars, etc.

x). After the abolition of the Zamindari system and princely States, the members of the community opted for jobs and services in the Central and State Govts. and Local bodies, Courts etc.

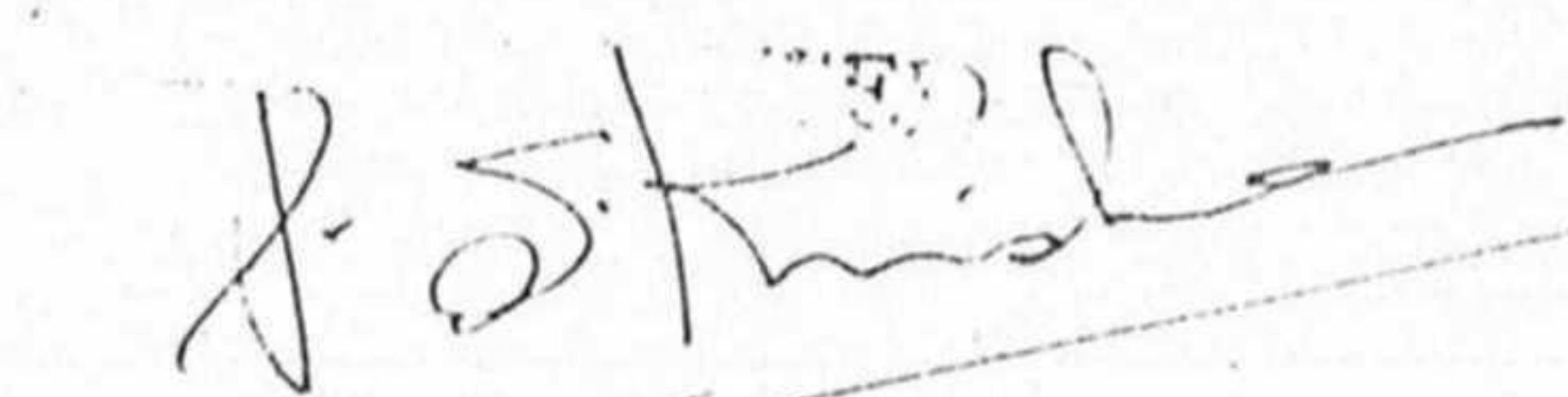
xi). The community has never been an affluent class or favoured business venture. They have neither held any landed property nor any ancestral business.

xii). In the past, about 75% of the wage-earners were in Govt. Service and were contented with Govt. residential accommodation. Most of the Community members preferred to live in rented accommodation without having their own houses to live in.

xiii). Despite their level of literacy being maintained, the community has shown remarkable decline in the Civil Services, Medical and Technical Education, and in Govt. Jobs in proportion to the average increase in its population.

xiv). The community, which boasted for its domain on Civil Services, Judiciary and in the field of Education, has in recent past shown sharp decline.

xv). Since the community is not an affluent class, they could not avail of Govt. Loan-funded schemes for business purposes.



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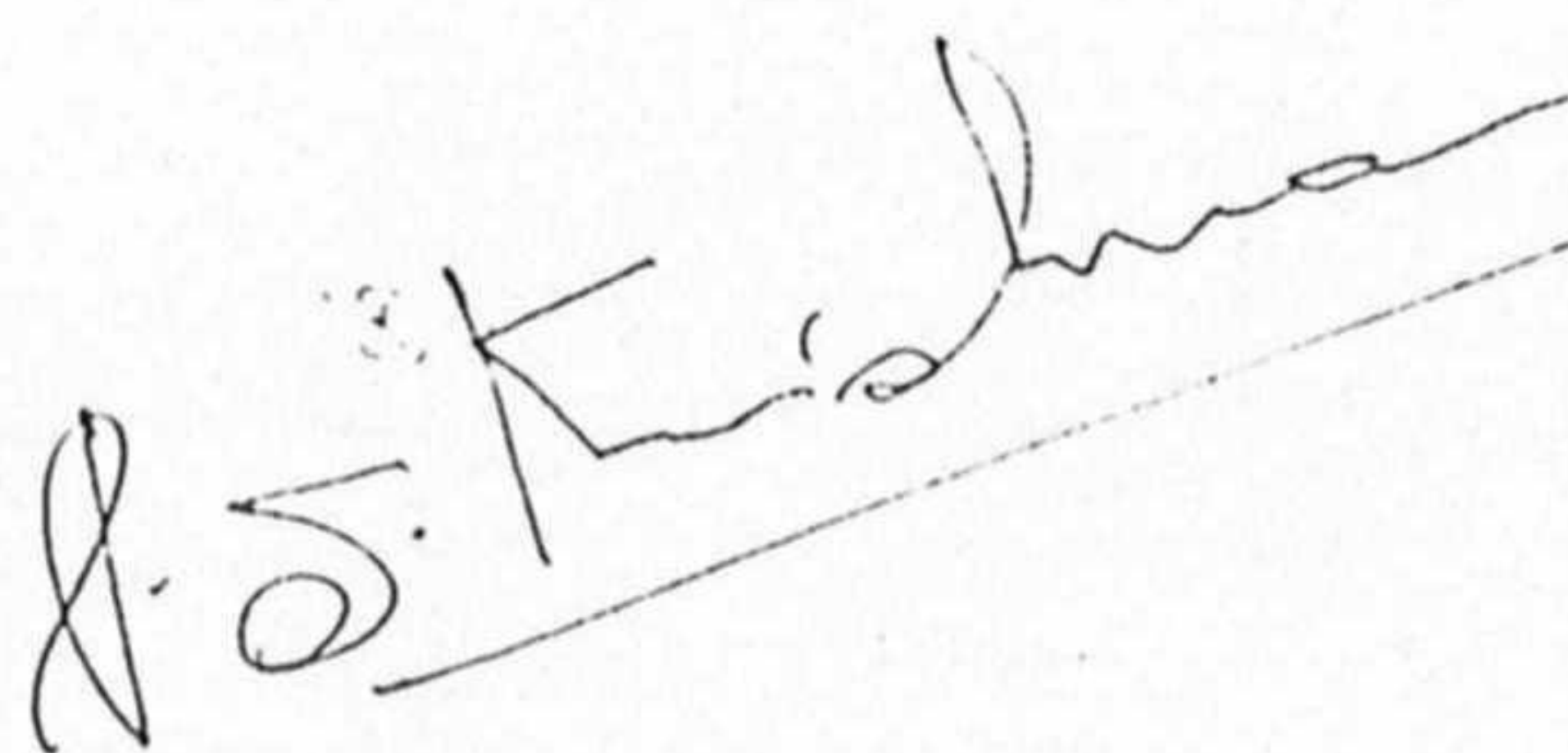
xvi). As the community is basically a service class community, reservation quota has adversely affected the younger generation. As a result, the level of educated unemployment in the community is higher than in any other community.

xvii). The Sabha has debated on the economic and social aspects of the community in the context of the present on-going scenario in the country. It is lamenting that in local bodies, assemblies or in Parliament, the Community's representation is dismally poor as compared to its sizable population.

xviii). The Community's social, economic and educational standard does not merit granting it an OBC status as per the eligibility criteria in this regard. But the Sabha has the vital role of safeguarding the interests of the community particularly its younger generation.

xix). The community is not an affluent class, nor a business class. It's basic hierarchy is service class. This distinctive characteristics of the community is inherited and age-old. As the commission is seized with the issue of enlarging the scope of OBC, the Kayastha community might not be granted this privilege. But social justice demands that the Community's age-old profession i.e. getting into government jobs has to be protected. The Sabha therefore pleads that the Commission should give weightage to this important characteristics of the community.

xx). The commission should evolve some methodology so that Community's younger generation may not suffer in the matter of appointments, supersession or promotions in Govt. jobs.



12. Shri Rajiv Nigam and others, R/O A/5, Shalimar Bag Delhi in their Request for inclusion of the Kayastha community in the central list of Backward Classes for Delhi stated the following facts:-

i). Presently the Kayastha community is backward. Due to non availablity of jobs, lakhs of boys & girls live the life of unemployment.

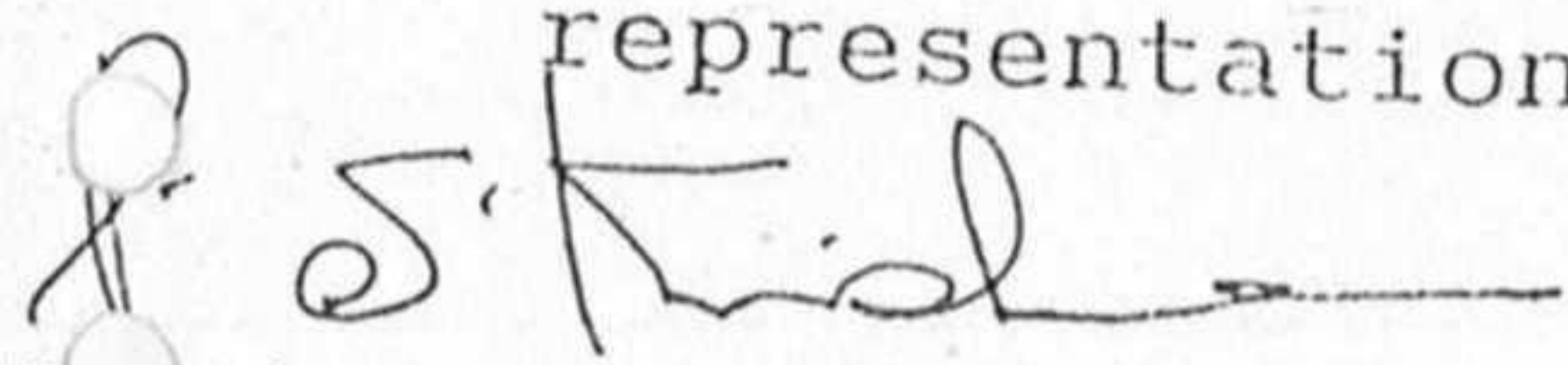
ii). For thousand of years the Kayastha community has been dependent on jobs and generally held smaller posts . But in the present cut throat competitive age children of the Kayastha community could not have higher education, and consequently could not compete with other high class. As a result they are not getting jobs.

iii). Children of the Kayastha community do not get admission in higher education like Medical, Engineering, M.B.A. due to financial competition as a result of which the percentage of the Kayastha community in the services has become negligible.

iv). Kayastha community has no traditional occupation & business except service. There are other castes/communities which have their traditional occupation e.g. Sunars--Gold Smiths, Lohar--Black Smithy, Brahmans-- Priesthood, Yadav & Ahir-- Gwala, Milk, Ghee selling. But kayasthas are dependent only on service.

v). Non-availability of jobs to Kayastha children is resulting in deterioration of their economic & social conditions day by day.

vi). The deteriorating condition of the Kayastha community is evidenced by the fact that there is almost negligible representation in the present Lok Sabha.



vii). It would be totally unjust to consider Kayastha community, 'not backward' simply for having few leaders, actors almost 40-50 years ago.

viii). In the last twenty five years the condition of the Kayastha community has deteriorated to an extent which possibly, no other community can compare.

ix). At present the community is backward in every field social, education, economic. 95% of people of the community are unemployed & they lead life of 'lost hopes'.

x). In present time the Kayastha community, due to its low educational, economic & social conditions, deems for inclusion in the list of OBC.

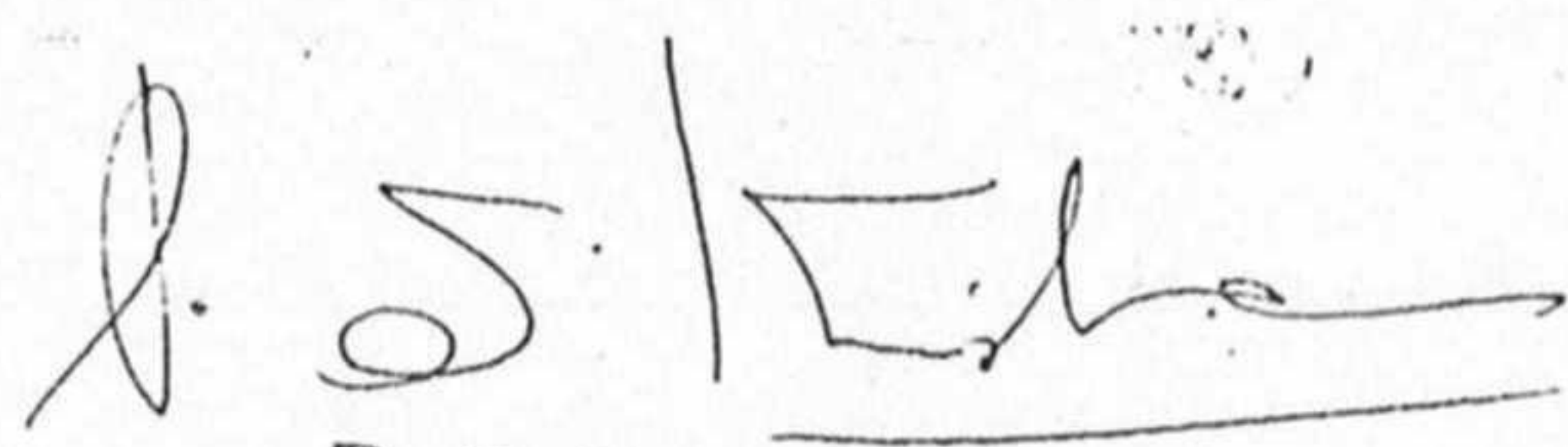
C. Ethnographic evidence and other references
in literature; An analysis

13. There is considerable ethnographic literature available about the Kayastha Caste in the works of H.H. Risley (1891), Hardyal Singh (1894), W. Crooke (1896), Ibbetson (1916), Rose (1919), Russell & Hira Lal (1916), R.E. Enthoven (1922) and J.H. Hutton (1951). There is also historiographic and sociological literature on it as discussed later.

14. J.H. Hutton ('Caste in India: Its Nature, Function and Origins'. (Geoffrey, Oxford University Press, Bombay) refers to kayastha as "as a writer caste of upper and of eastern India (ranks next to Brahman in Bengal)". He cites it as an example of how the barrier between the traditional Varnas or Classes was "perhaps not entirely impassable" because, according to him, citing Gait ('Report of the Census of Bengal, 1901) and Colebrooke ('Enumeration of Indian Classes' in Asiatic Researches, 1807) in support, this "important caste of Kayastha..... is now commonly regarded as 'twice-born', and itself claims to be Kshatriya, though it was perhaps more often regarded as clean Sudra a hundred years ago and its

status as twice-born is still disputed." Hutton thinks that they are "probably really an occupational caste in origin, and as 'writers' may have been recruited from more than one varna."

15. Census of India 1931-Vol.V Bengal and Sikkim by A.E.Porter, Part I, Report (Usha Delhi, 1987 Reprinted, First edition 1933) contains a note on the Kayasthas which was prepared by N.K.Dutt (Appendix-II, PP.524-528). Dutt has given a detailed account of the origin, social status, occupation, & function of the Kayasthas. He writes that "Recruitment from all classes, particularly from Brahmana and Kshatriya castes, swelled the number of Kayastha officers to meet the growing demands in all parts of Northern and western India, and the group which was at first functional became gradually solidified into a caste. Southern India lay too far away from these influences and did not develop a well-marked Kayastha Caste." As regards their functions in occupation he mentions that "Formerly the Kayasthas formed what is now-a-days known as the Civil Service and were found as collectors of revenue, Settlement and Survey officers, Bench - clerks, Accountants and Auditors, Secretaries to the King, particularly as Ministers of peace and war and sometimes as chief-administrator of a Division and judges. It was on account of such wide functions and powers and not because merely of their profession as writers that they were so much dreaded by the people." He notes that the Kayastha is found as a bench-clerk in Vishnumriti VII,3, as well as in the court-scene of the drama Mrichchhakatika Act IX and that Kayastha is explained as a tax-collector in Aparaka's commentary on the Yajnavalkyasmhita. He also cites the Damodarpur copper-plates of the Imperial Gupta times, the copper-plates inscriptions in Bengal and the Khalimpur grant of Dharmapala as showing that "the Kayasthas formed the majority in the superior cadre of the district and divisional officers without whose knowledge and permission no transfer of landed property could take place." He cites the Rajatarangini in which the civil officers were mostly Kayasthas, who were sometimes appointed as prime ministers and even military

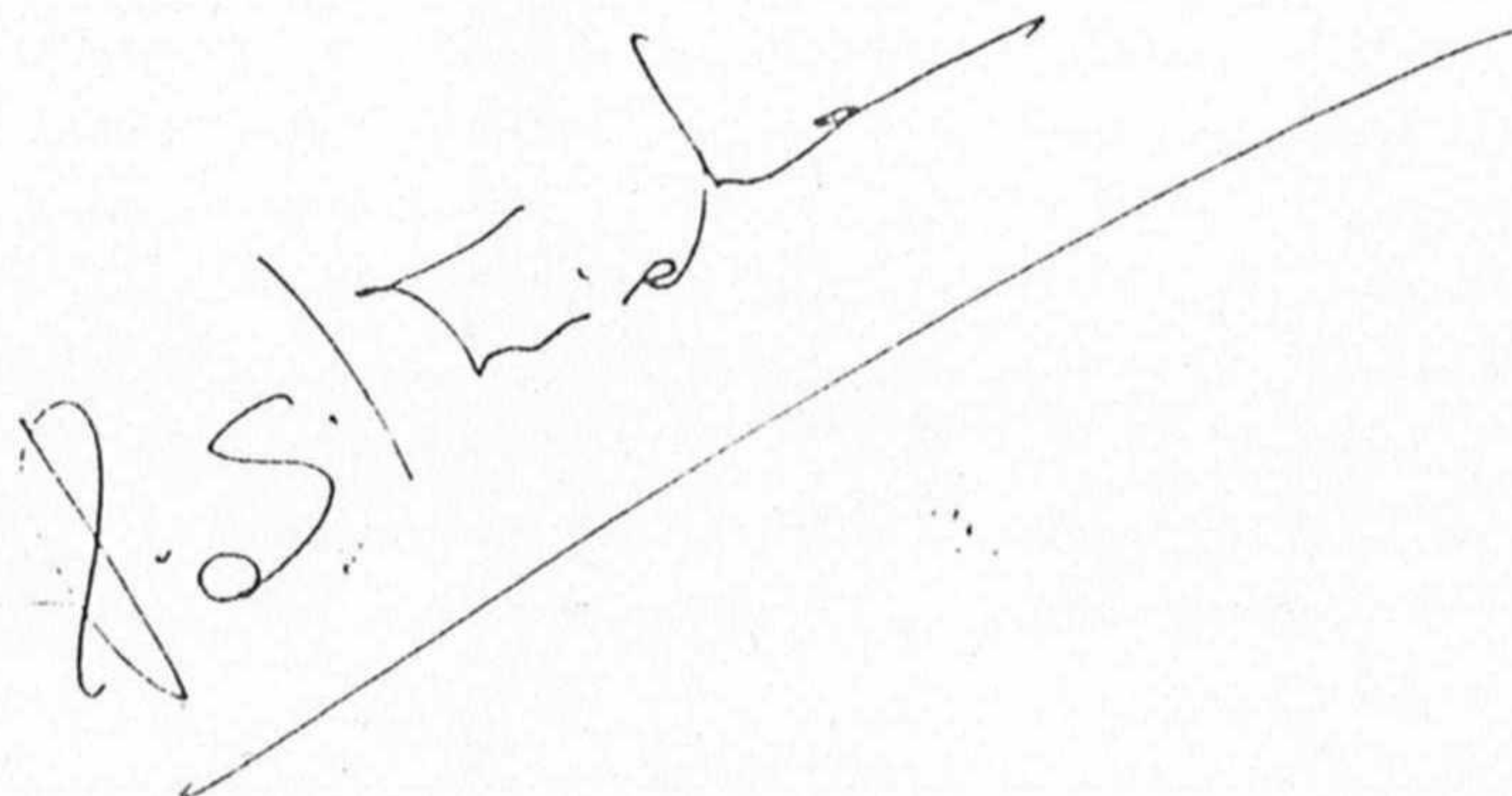


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commanders. The following quotation from Rajatarangini indicates their role as collectors:- "With his mind merged in greed the King took for friends the Kayasthas who carried off all property of the subjects while delivering only the smallest fraction of what they realised."

16. Munshi Hardyial Singh in his book. 'The Castes of Marwar--being (census Report of 1891)' (Books treasure, Jodhpur, Second edition, 1990, p.124-27, first edition 1894) classified the Kayastha Caste under occupational category of caste "writers" along with Khatri and Oswal in Marwar. He describes the Kayasths as "the chief class of Writers in Marwar". He quotes Sir John Malcom about the origin of the community to the effect that "their Origin is coeval with the invention of letters; that they were created to be an intellectual not a labouring class; and they in consequence deem themselves devoted to learning". Munshi Hardyial Singh further proceeds to state that

"The Kayasthas have been once a great race having enjoyed the special privilege of holding offices of trust under the Musalman rulers of India. They follow no other profession but that of the pen. They regard it a sin, as remarks Sir John Malcolm, to use in mean offices hands which God has expressly made for the noble purpose of writing. They worship Dawat or inkstand twice in a year at the Diwali and Holi festivals, just as the Rajput worship their sword on the Daserah. They are remarkable for their intellect and ready compliance with the wishes of their masters" (Ibid p.127).



17. According to Census of Marwar, 1911 (Pt.II, Govt. of Marwar Press Jodhpur PP.163-174) the Kayastha community stood next to Brahamans among six castes/communities in Marwar who knew English and other languages. This shows that this community has always been educationally forward in the erstwhile State. It is further evidenced from the fact that the Kayastha caste was the first caste in Jodhpur-Marwar to respond to modern education and opened their own school for education of their children in 1887 in Jodhpur. (see: M.L.Mathur, Caste and Education: A Sociological study of caste-managed secondary schools in Jodhpur city, Ph.D thesis (unpublished) Jai Narayan Vyas University, Jodhpur, 1996). Being educationally forward the members of the community held administrative and important positions in the erstwhile princely state of the Marwar (See: Mathur M.L.Ibid).

18. W. Crooke in his ethnographic account: 'The Tribes and Castes of the North Western India (Cosmo Publications, Delhi 1974, Vol.III PP.212-213 Originally published under the little 'Tribes and Caste of the North-Western Province & Oudh', Calcutta, -1896) described in detail about the Kayastha of Hindustan". As regards its social status and occupation Crooke writes:- "Notwithstanding the jealousy with which they are regarded by their less astute neighbours, the social position of the caste is a high one..... The Occupation of the Caste is in the main literary, and they have supplied many valuable officers of Government and members of the Bar and Educational Department "(P.213).

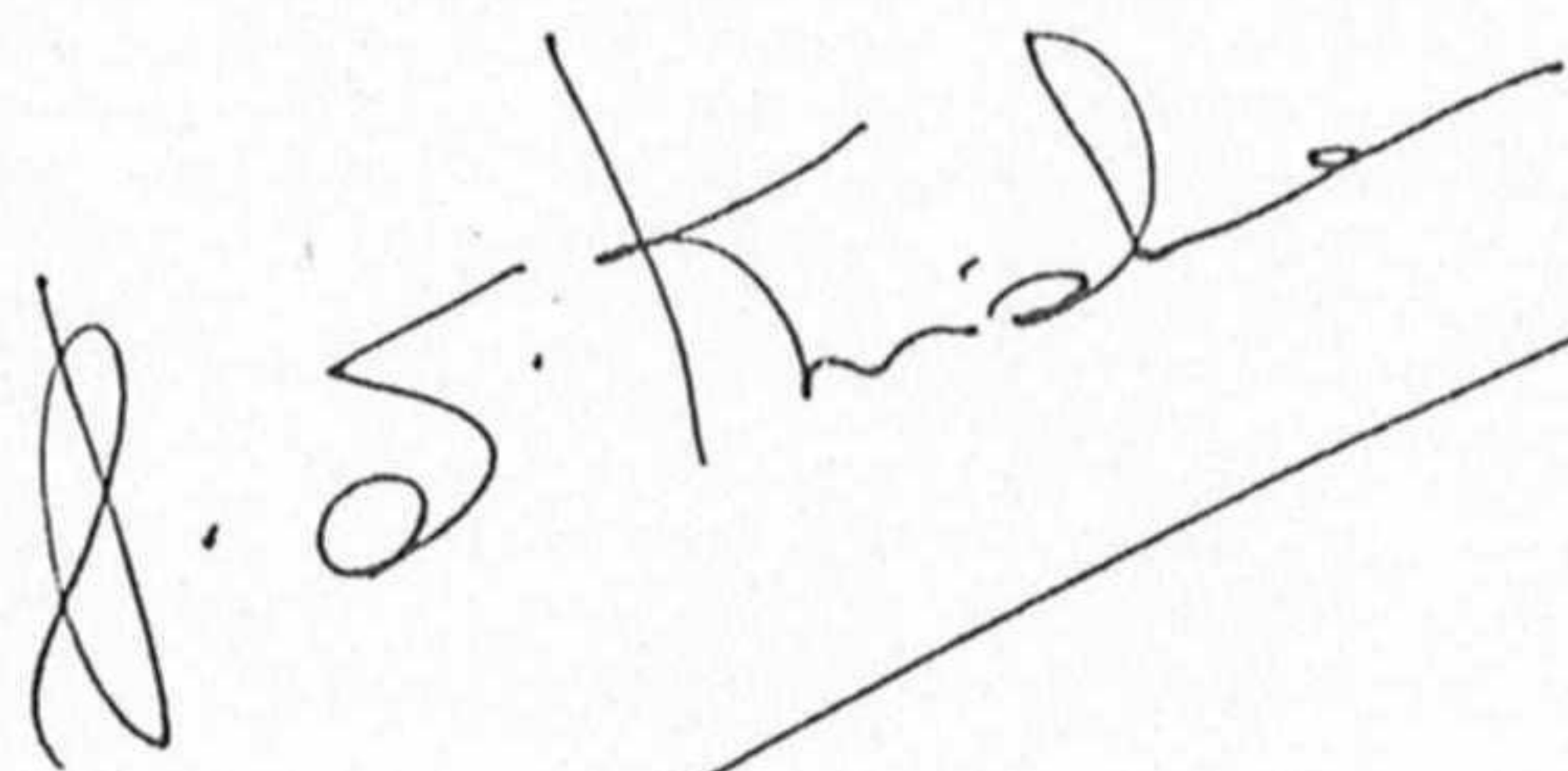


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19. In his Report of the Census of 1931, Hutton arranges two dozen castes and tribes of the country in a tabular form in the order of their literacy per mille. At the bottom of the tables are Scheduled Castes and Scheduled Tribes like Chamar, Bhil, Gond, Dom, etc. At the top of the table are Baidya, Nayar, Kayastha, Khatri and Brahman. Kayastha comes third after Baidya and Nayar, only because the female literacy among Kayasthas is less than that among Nayars. Among the latter, female literacy is higher than among women in most parts of India, for socio-historical reasons peculiar to Kerala. The male literacy of Kayasthas is higher than that of Nayars and comes second only to that of Baidyas. Regarding Bihar, the Census of India-1891 shows that Kayasthas had the largest number of persons literate in English, about 50% more than the second-ranking community viz; Brahmins whose population was three times more than that of the Kayasths and more than four times the number of English literates of the Rajput community whose population also was about four times that of the Kayasths. As per the Census 1901 and 1911, the Kayasths retained their primacy with 432/1000 English literates in 1901 and 551/1000 English literates in 1911, while the second-ranking community viz; Brahmins were far behind with only 49/1000 in 1901 and 81/1000 in 1911. The Census of India, 1931 for United Provinces of Agra and Oudh Report by A.C. Turner lists 95 castes of Uttar Pradesh on the basis of their level of literacy, illiteracy and level of literacy in English. Turner classifies them in three categories, viz., Advanced, Intermediate and Backward. There is only one caste in the category of advanced and that is Kayastha. Vaishya, Saiyid, Bhumihar, Brahmin and similar castes/communities totalling 17 figure in the Intermediate category while the rest are in the Backward category in this parameter. While the figures for all India brings out their position in literacy and education and therefrom indicates and explains their high position in the educated professions and their participation in the Governmental bureaucracy, the figures for Uttar Pradesh

are particularly important because Uttar Pradesh is central to North India in size, population and socio-political significance and also because Delhi is virtually an extension of the most advanced region of Uttar Pradesh. Delhi being the central metropolis of India for a long time perhaps has attracted what could be called "the Creamy Layer" of the Kayastha Caste as of many other educationally advanced castes/communities (which are also in fact Socially Advanced castes/communities).

20. H.H. Risley in his book "The Tribes and Castes of Bengal-Enthnographic glossary", (Firma Mukhopadhyay Calcutta, India, Reprint Vol. II PP. 452-453, 1st edition, Calcutta 1891) explains the social status of the Kayastha caste apparently of Bihar which was then part of Bengal in the following words- "popular opinion rank them next in order to Babhans and Rajputs and like these, when they hold land as ryots, they get their homestead free of rent" (PP. 452-453). As regards their occupation Risley states that "Clerical work is believed to be the original and characteristic occupation of the caste, and an illiterate kayastha is looked upon as a creature with no proper reason for existing".

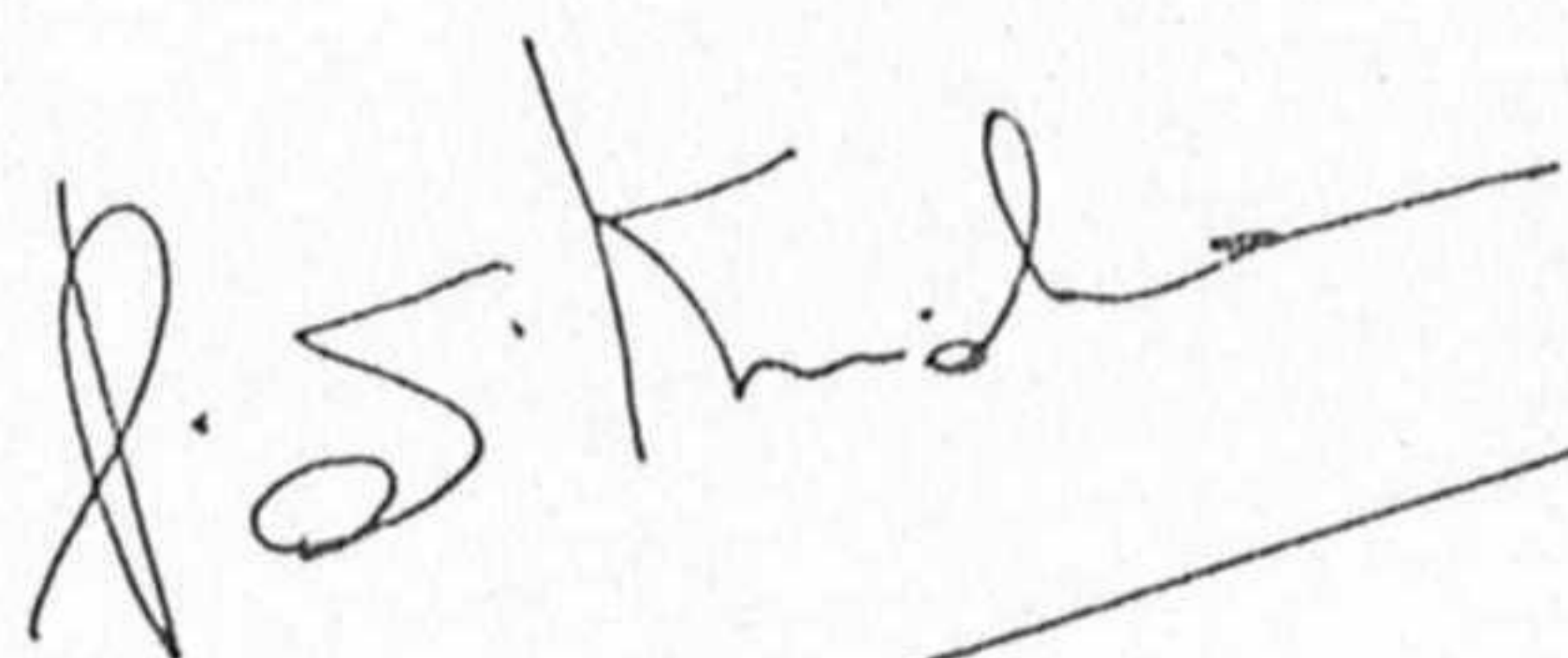


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21. Romila Thapar in her book entitled "Ancient Indian Social History" - Some Interpretations (Orient Longman, Delhi, Reissued in this edition, 1984) First Published in 1978) has given a good analysis of the changing and growing fortune of this community from the medieval period to the modern period in the following words:-

"From the Gupta period onwards there is occasional mention of the Kayasthas who served as scribes. They wrote documents, maintained revenue records and assisted the judges. By the ninth century the Kayasthas had evolved into a caste and were given a low ritual status, described as originating from the intermixing of brahman and sudra. By the eleventh century, they were such a widespread caste that they had to take local descriptive names such as the Gauda Kayasthas from eastern India or the Valabhya Kayastha-Vamsa. Some rose to high office, received land grants, held feudatory status under the Gahadavalas, Candellas and others and patronised religion. They were scorned by the brahmins because of their low ritual status and yet at the same time feared since the Kayasthas had access to wealth and political power in some parts of the country by the eleventh century. The rise of the Kayasthas is a good example of the upward mobility of an occupational group caused by the administrative and economic need for scribes and administrators, which situation was fully exploited by the Kayasthas to establish their actual status." (emphasis added)

22. Prof. R.S.Sharma has also given a similar analytical explanation regarding the change and

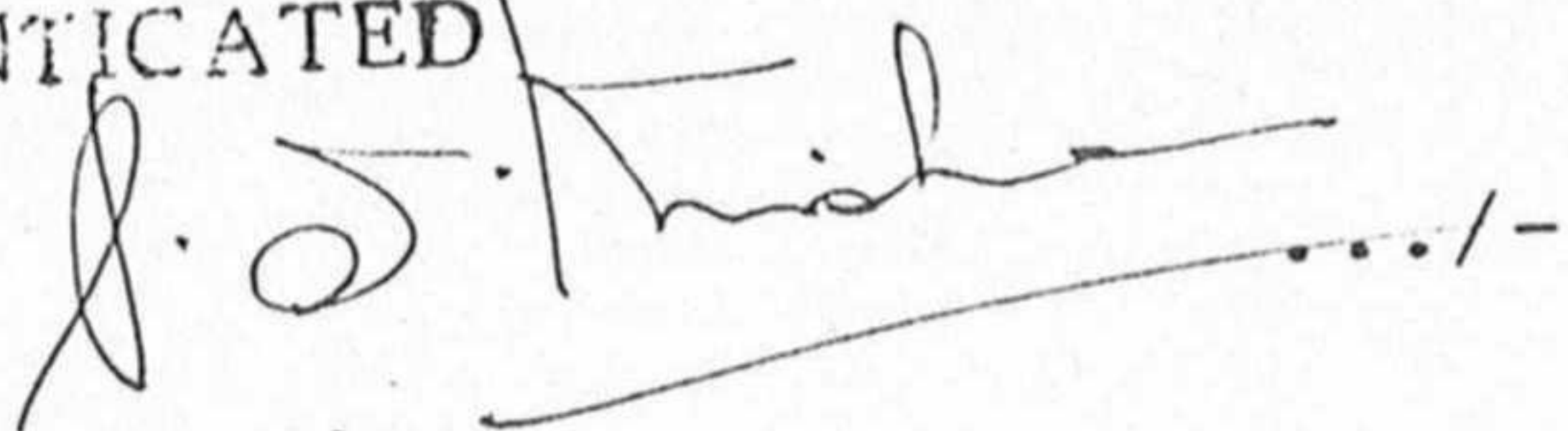


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controversies with regard to the status Kayasthas. It may be mentioned that there is an error of oversight in Prof. Sharma's stating that the Allahabad High Court called them Brahmins. In fact it did not pronounce them Brahmins but Kshatriyas and the Patna High Court treated them as belonging to one of the three regenerate classes (the term regenerate is a literal translation of the Sanskrit term Dwija).

23. While the position of Kayasthas in North India and East India has got documentary basis, references are available about Kayasthas in other parts also. As mentioned in Para 15 supra, N.K.Dutt has inter-alia observed that "Southern India lay too far away from these influences and did not develop a well-marked Kayastha Caste". However, there are certain other references which indicate that Dutt's observation is not fully correct. It is a fact that in Maharashtra, there is a community known as the Chandraseniya Kayasth Prabhus which has got a position there comparable to that of the north Indian Kayasthas. R.E.Enthoven in his book entitled "The Tribes and Castes of Bombay". Vol.III, Asian Educational Services 1990 gives an account of this community. According to him, they "Claim to rank as Kshatriya and to be one of the three twice-born castes of the historic divisions of which members are authorised to perform the upanayana ceremony." He finds some evidence of this community in Maharashtra even in the 10th and 11th centuries, but its history is readily

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traceable since the introduction of Muhammadan rule in the Deccan. "They served that government with an unsparing zeal in civil and military service.....In this way, they helped the Muhammadan rulers in maintaining civil order and protecting the fortresses from foreign aggression. The caste also exhibited remarkable bravery, statesmanship, loyalty and intelligence during Maratha rule. It was one of the chief sources of the strength of Shivaji and his successors. Murar Baji Deshpande of Mahad, Vishvasrao Nanaji, Babaji Boaji, Dadji Raghunath and others were eminent military and civil Prabhu officers of Shivaji. Balaji Aoji Chitnis was his chief adviser and secretary." He says that their original occupation was soldiery but later they became writers. He further refers to their rise to eminence in both the fields in the following words:

" Between these extreme traditions of war and peace they continually worked in politics and rose to be great generals, ministers, politicians and secretaries. They have not given up these occupations up to the present time and they either serve in the army in high capacities in the Native States, or are Government servants. The only new professions which they hitherto have been induced to take up are those of lawyers, doctors, and engineers. A great number hold responsible posts under the British Government and in the Native States, or are eminent professional men. Some of them are jaghirdhars, inamdars and land-owners, and some are agriculturists." An indication of their status in traditional

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society can be had from Enthoven's observation that "Brahmans generally do not object to Pakki at the hands of Prabhus. Except from vegetarian Brahmans of Maharashtra, the Chandra Seniya Kayasth Prabhus will not take kachi, pakki or water from any other caste."

24. Even in the former Nizam State of Hyderabad, Kayasthas came to notice from the 18th century, when Nizam-ul-Mulk, the Mughal governor of the Deccan province founded a separate dynasty there with a title of Asaf Jah-I. The military as well as the administration of the Nizam of Hyderabad had Kayasthas as an important element. The rise of the Kayasthas in the service of the Nizam is described by Karen Isaksen Leonard in her "Social History of an Indian Caste - The Kayasths of Hyderabad" (Orient Longman, Delhi. First published in India, 1994). Leonard refers to Kayasthas in general as follows:

"Traditionally a writing caste, their historical prominence dates from the establishment of Muslim rule in India".

Asaf Jah I himself appointed one Puran Chand to be his Dewan, who was probably a Kayasth. Kayasthas from North India came and joined the Nizam's service. Leonard estimates that Kayasthas formed 26% of all Hindus and 59% of north Indians in the Hyderabad administration in 1784. In 1800-1820, the proportion of Kayastha Jagirdars was estimated by her to be about 22% of all Hindu jagirdars and 52% of north Indian Jagirdars in Hyderabad. Amongst Mansabdars,

their proportion was estimated to be about 46% of all Hindus and 69% of North Indians, the other north Indians being Khatris, Agarwals and Brahmins. Thereafter Kayasths continued to rise in the late 19th and early 20th centuries and Leonard lists high ranking Kayasths in 1948 among whom there were Secretaries, Heads of Departments, Personal Secretaries and Police Officers, etc. According to Leonard, the situation of the Kayasths improved somewhat after the Police Action and assumption of control of Hyderabad by Government of India. Even after the growth of competition from other elite groups in the new State of Andhra Pradesh, the educational standard already achieved by Kayasths helped them to acquire new qualifications and move into several new occupational areas particularly the legal, medical and educational professions in addition to modern administration. The educational status achieved by the Kayastha community even before Independence is an advantage that has continued to accrue to them in the post-1956 State of A.P., of which the major portion of the former Hyderabad State viz, Telengana is part.

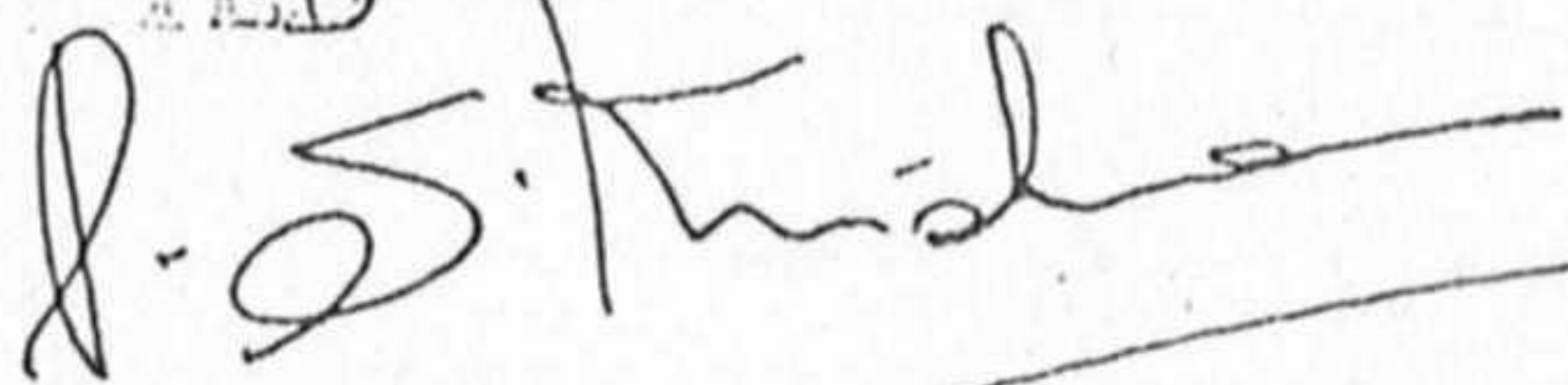
D. Judicial references to the status of Kayasths

25. It is necessary to take a view of the judicial references because the representatives of the community have referred to a Judgement of the Calcutta High Court and judicial

pronouncements generally as having termed Kayasths as Sudras. They have not produced copies of the Judgements of the Calcutta High Court referred to by them or of any other Judgement. Their citation of the Calcutta High Court Judgement does not seem to be correct. In this context, the Bench has made its own efforts to find out some typical and important judgements in respect of the Kayastha community and the context in which they were made. A number of Judgements of the Calcutta, Allahabad and Patna High Courts and the Privy Council have been referred to by Girish Mishra and Braj Kumar Pandey in their book entitled "Sociology and Economics of Casteism in India" - A Study of Bihar (Pragati Publications, Delhi, 1996).

26. In Raj Kumar Lal Vs. Bishesar Dayal (1884, ILR 10 Cal 688), and Asita Mohan Ghosh Vs. Nirod Mohan Ghosh Maulik [1920, LR. 47 I.A. 140(145)*, the Calcutta High Court, relying on Shyama Charan Sirkar's Vyavastha Darpana, decided that the Kayasths were termed as shudras and were not to be treated as upper caste Hindus in matters of property rights and inheritance. In a subsequent case viz; Tulsi Ram and another Vs. Behari Lal and another (1890), Indian Law Reports (Allahabad Series), Vol. XII, Allahabad, Full Bench, pp. 328, 334-87, Munshi Kali Prasad, a wealthy and leading lawyer of Lucknow and Founder of Kayasth Dharm Sabha and the Urdu journal, the Kayasth Samachar marshalled facts and evidence and put in systematic efforts and advocacy. In this case, the Allahabad High Court pronounced that the Kayasths of North-Western Provinces and Oudh (i.e. present Uttar

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Pradesh) were Kshatriyas. While coming to his conclusion, Mr. Justice Mahmood who wrote the Judgement with which other Judges concurred, took note of and differed from the ruling of the Calcutta High Court referred to above. He held that the question had not been settled by any adjudication of the Lords of the Privy Council in either of the two cases that had gone before it viz. Sri Narayan Mitter Vs. Sree Mutty Kishen Soondoory Dasse and Mahashoya Shosinath Ghose Vs. Srimati Krishna Soondari Dasi, both of which cases referred to adption by Kayasths of Lower Bengal. Out of the five Judges who constituted the full bench in this case, only one was Indian and the rest were European and the Kayasth community propagaged that this judgement was therefore more objective and impartial. Later in 1927, in the case of Ishwari Prasad Vs. Rai Hari Prasad, the Indian Law Reports, Patna Series, Vol. VI, 1927, pp. 506-53, a much more detailed Judgement held that "the Kayasthas of Bihar belong to one of the three regnerate classes and are not Sudras." This Judgement cites the first of the two Calcutta High Court Judgements referred to above viz; Raj Kumar Lal Vs. Bishesar Dayal, on the basis of which the Subordinate Judge of the Gaya had held the Bihar Kayasthas to be a class of Sudras. The Patna High Court discusses the subsequent course in Asita Mohan Ghosh Vs. Nirod Mohan Ghosh Maualik, that went to the Privy Council which refused to give assent to the decision that the Bengali Kayasthas are Sudras and left the question open in the following words:-

"One contention was as to the rights of succession of persons who were by caste Bengali

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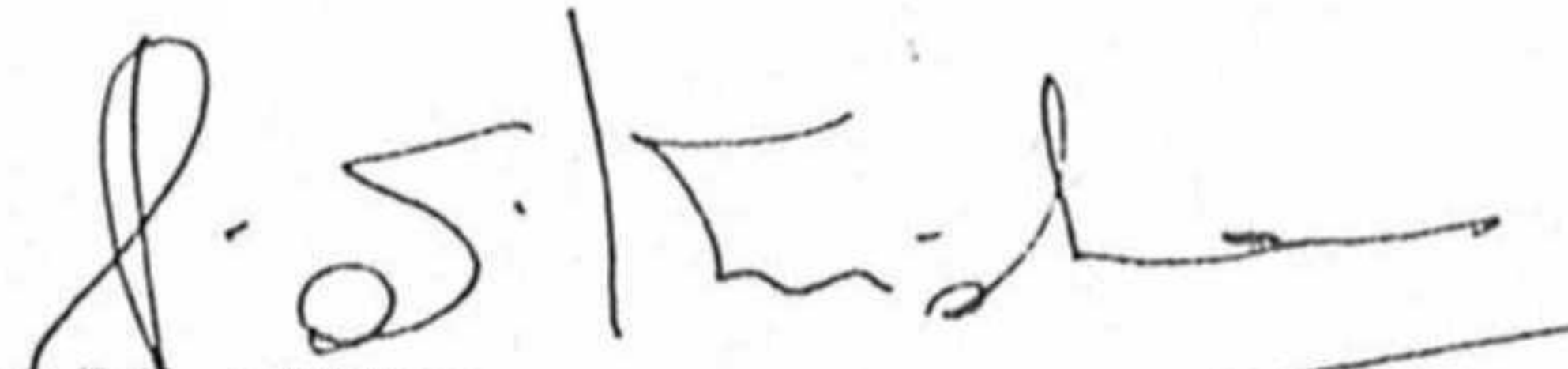
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Kayasthas. It has been found not on evidence, but following some decisions of the High Court at Calcutta, that Bengali Kayasthas are Sudras. Their Lordships do not think it necessary to decide whether or not Bengal Kayasthas are Sudras, or to decide as to the construction of a text of Dattakchandrika which has been referred to by the courts below as applicable to the Bengali Kayasthas. Their Lordships are of opinion that the rights of the parties depend on the construction of the agreement upon which Kumar Narendra Chandra Roy gave his son Sailendra Mohan Ghosh to Radha Mohan Ghosh in adoption."

27. Thus, according to the Patna High Court, the Calcutta High Court decisions as to the Bengali or Bihari Kayasthas being Sudras are inconclusive and the matter has been expressly left open by their Lordships of the Judicial Committee. According to the Patna High Court, the social position, religious observances, customs and manners of the Kayasthas of Bihar are the same as those of the United Provinces and Oudh and fully concurred with the Allahabad High Court Judgement of 1890 referred to above.

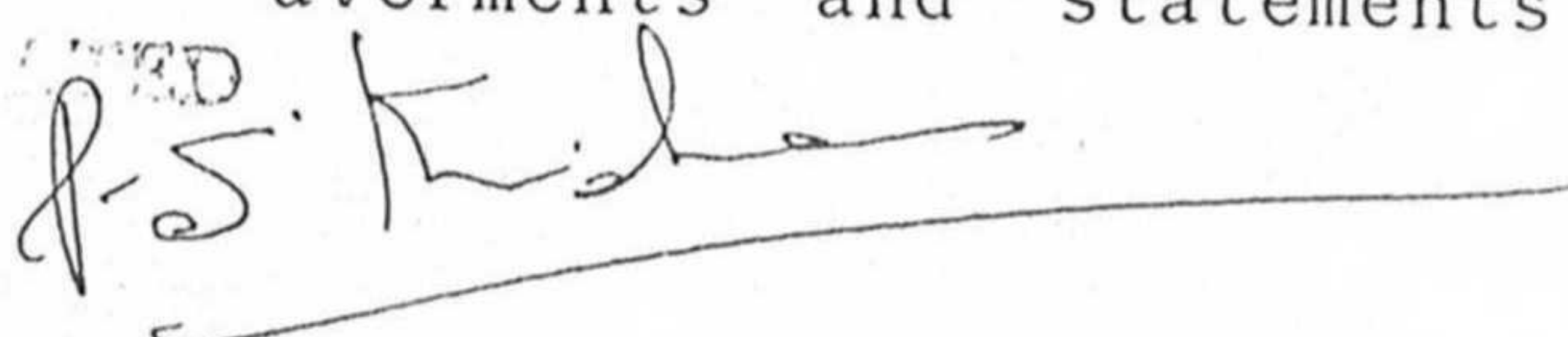
28. The Benches note that two different views have thus been taken by High Courts. In earlier Judgements pertaining to Bengali Kayasthas, they have been held to be Sudras. In the later Judgements of the Allahabad and Patna High


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Courts, they have been held to be not Sudras but Kshatriyas. The Privy Council left the issue open and found it not necessary to come to any conclusion about this, in the context in which the issue was agitated. It is seen that the context of these cases was disputes regarding properties, adoption, succession etc., which are not relevant to the issue before this Commission which is whether a particular community at present or in the recent relevant past is socially backward or not. The representationists even though vaguely have wrongly referred to the Calcutta High Court, but not to the Allahabad and Patna High Courts or the Privy Council.

E. Views of the State Government and other views at Public Hearings

29. During the Public Hearing the representatives of the community in Rajasthan did not appear before the bench. The representatives of the State Commission for Backward Classes informed the Bench that the Kayastha community was asked to furnish data in the Questionnaire but they had not till then done so. The State Commission for Backward Classes vide their letter No. F/RBCC/97 dated the 14th July 1997, informed the NCBC that the Kayastha community is not socially and educationally backward and have good representation in govt. service, have no social evils, and have good percentage of female literacy. The representatives of the community from Delhi appeared before the Bench. Their averments and statements have been mentioned

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earlier. Those present belonging to different sections of the society at the time of the Public Hearings in Rajasthan and Delhi objected to the inclusion of the Kayastha community in the Central List of Backward Classes for Rajasthan and Delhi States on the ground that Kayastha is a socially and educationally forward community with much more than adequate representation in the government service in relation to their small percentage of the population. According to the representatives of the State Government the Kayasthas have not applied to the Delhi State Backward Classes Commission. The representatives of community agreed that they are not socially backward.



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IV. Findings

30. The Benches found that some of the grounds advanced in the representation and averments are really not serious, as for example the averment at para 8(i). Assuming that Kayasthas are larger in number than Gujjars, the inclusion of Gujjars in the list of BCs is no ground for the inclusion of Kaysathas also. It is also not correct to say that the Mandal Commission has ignored Kayasthas without assigning any reasons, as can be seen from para 33 below. In some places the plea has been taken that there was no traditional occupation for the community as to apprently almost imply that this is an indigent and shiftless community. The representataives of the community cannot be unaware that their traditional occupation is bureaucratic and other such prestigious service and professions as brought out in section III C above. The ground taken at para 10(i) will mean that no caste can be excluded from the list of BCs or the policy or reservation itself should be abolished. In fact that is the unrealistic and un-Constitutional plea raised in that paragraph, as an alternative to which they want themselves to be included in the list of BCs.

31. The Benches note that the Requests made on behalf of the Kayastha caste/community for its inclusion in the Central List of Backward Classes for Rajasthan and Delhi have been made on two categories of grounds, namely, Social and Economic. In support of the first, all that the representatives of the community in Delhi have been able to urge is a decision of the Calcutta High Court declaring the community as belonging to Shudra Varna. But they did not produce a copy of the judgement. As seen from section D above, the representatives of the community have not given the correct picture of the judicial pronouncements. In the light of the analysis of the judicial pronouncements and their context contained in section D, this ground of their claim of social backwardness is not sound. There is difference among different High Courts on whether the Kayasthas are Sudras or Kshatriyas /Dwijas and the issue was considered open by the Privy council. The context in which these Judgements were made pertain to aspects of personal law relating to marriage, adoption, succession and inheritance, and do not relate to the present

context of arriving at a finding on the claims of Social Backwardness by the Kayastha. Even if they are held to be of the Shudra Varnas it does not help their claim. For, while it is true that normally castes categorised as belonging to the three non- Shudra Varnas are not found to be Socially Backward and therefore are not included in the list of BCs, and while it is also true that with rare exceptions virtually all castes included in the lists of BCs belong, in terms of the Varna system of categorisation of castes, to the Shudra Varna, the corollary is not true --- not all castes which are categorised under Shudra are automatically and necessarily included or deserving to be included in the list of BCs. Examples of some communities which are traditionally categorised as Shudras but are not included in the list of BCs are Reddy and Kamma of Andhra Pradesh and Nair of Kerala. While the Requests of non-Shudra Varna castes have, in view of well-known social realities of India, naturally to be looked at with scepticism and data pertaining to it have to be subjected to strict scrutiny, every caste/community of Shudra category have not been and will not automatically be found to be Socially Backward, only on that ground.

32. The very facts enumerated in the Request of the Akhil Bharatiya Kayastha Mahasabha, Delhi and Delhi Pradesh Kayastha Sabha Delhi go against their claim to be Socially Backward or Socially and Educationally Backward. The facts admitted by them and ethnographic and socio-historical literature abundantly bring out the fact that the Kayastha community is Socially and Educationally Advanced, and in fact educationally it is among the most Advanced. During the Public Hearing, representatives of the community from Delhi also agreed that they are not Socially Backward. Even apart from their admission and acceptance, the evidence available incontrovertibly and indisputably shows that this is a Socially and Educationally Advanced community in every respect. A social group the occupation of which is mainly service --- not the kind of lowly/stigmatised services which castes like Dhobi and Nai provide, but Service under the State, which is a source of power and prestige -- and classified as a 'writer' community ('writer' here includes all categories from the village Patwari to top bureaucrats at the regional and Central level, not only in recent times but from the times of the Mauryas and the Guptas through the times of the Khiljis, the Mughals and the

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irrespective of castes, whether they belong to Advanced castes or Backward castes or Scheduled Castes or Scheduled Tribes. Though open to all, the bulk of this generally goes to Advanced Castes including Kayasthas. The vast numbers of the unemployed deserve all sympathy whether of forward classes or BC or SC or ST, but that is not a problem connected with reservation. The number of posts in Government services filled up each year is only a meagre fraction of the registered unemployed in the country. A solution to this gigantic problem of Unemployment has to be found elsewhere. But this is no reason for including obviously, incontrovertibly and even admittedly Socially and Educationally forward castes/communities in the list of backward Classes.

33. In this context, the Benches note that while working out the population of the Backward Classes, according to the methodology adopted by it in the absence of Census figures, the Mandal Commission Report has specified the Kayastha Caste among the Forward castes/communities whose projected population percentage of 1.07% has been deducted from the total population to compute the percentage of BC population. (Govt. of India, Report of the Backward Classes Commission second part, Vol.III to VII;1980,Annexure I,P.235). No Commission, National or of any State has found it fit to consider kayastha as a Socially and Educationally Backward Class and none of them has included this community in the List of Backward Classes recommended by them. No government has included this caste in the list of Backward Classes. This unanimity arrived at the independently by each Commission, is not accidental, but arising from the logic of the factual social situation of the Kayastha as historically evolved and well-established quite a few centuries back and continuing to this day.

34. From the above evidence, including data furnished by the representatives of the community themselves, it is the Finding of the Bench that the Kayastha caste is not a Socially and Educationally Backward Class, but on the contrary is a Socially and Educationally Advanced Class, which is also well-represented in the services of the State. The inclusion of such castes/communities in the list of Backward Classes is not only counter to facts and social realities, but also deprives the classes which are genuinely socially backward

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of their due and thus seriously distorts the Constitutional and National policy on backward classes. The inclusion of such Advanced castes/communities in the list of Backward Classes also would confer on them an un-constitutional and un-conscionable advantage over other advanced castes/communities who are correctly not included in the list of Backward Classes and with whom the former ought to compete on equal terms. Therefore, the present Request for Inclusion of the the Kayastha community in the Central List of Backward Classes for Rajasthan and Delhi should be rejected.

35. While it is the right of the members of the community to apply, the Commission appreciates that the members of the community in all States except Rajasthan and Delhi have correctly understood their position and the Constitutional provisions and have rightly not applied for Inclusion in the list of Backward Classes for any other State, but irrespective of whether there are applications or not the above Findings/conclusions reflect the correct position regarding them not only in Rajasthan and Delhi but in all other States though the present Findings and Advices are limited only to the Kayasthas of Rajasthan and Delhi since only their Requests are before the Commission.

P. U. Singh
14/8/98

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P. S. Krishnan
14.8.98

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Mem. Secretary
National Commission
for Backward Classes

V. Advice of the Commission

36. The Commission considered and agreed in full with the above Findings of the Rajasthan and Delhi Benches and decided to tender the following Advice to the Central Government under Section 9(1) of the NCBC Act, 1993 for action by the Central Government under Section 9(2) of the NCBC Act, 1993:-

The Requests for Inclusion of the Kayastha caste/community in the Central Lists of Backward Classes for Rajasthan and Delhi be rejected as it is not a Socially and Educationally Backward Class, but on the contrary is a Socially and Euducationally advanced class, well-represented in the services of the State.

P. L. Alexander
14.8.98

Rathayan
14.08.98

Rev. G. D. Dhilli
14.8.98

P. S. Krishnan
14.8.98

Lodha Bipin
14.8.98

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